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**1 - Rail car suggested as cause of blast, My SA, 4/22/13**

[http://www.mysanantonio.com/news/local\\_news/article/Explosion-s-source-could-be-rail-car-full-of-4453532.php](http://www.mysanantonio.com/news/local_news/article/Explosion-s-source-could-be-rail-car-full-of-4453532.php)

**Summary:** The chairman of the Texas Commission on Environmental Quality raised the idea Monday that the explosion at a fertilizer plant that devastated the tiny town of West might have started with a rail car loaded with ammonium nitrate.

**2 - West firefighters knew of ammonium nitrate; how it affected response unclear, DMD, 4/22/13**

<http://www.dallasnews.com/news/west-explosion/headlines/20130422-west-firefighters-knew-of-ammonium-nitrate-how-it-affected-response-unclear.ece>

**3 - Environmentalists seek to draw on West explosion in legislative matters, Amer-Statesman, 4/22/13**

<http://www.statesman.com/news/news/state-regional-govt-politics/environmentalists-seek-to-draw-on-west-explosion-i/nXTGt/>

**Summary:** In the wake of an environmental disaster in West, environmental groups promised to redouble their efforts to defeat legislative proposals that would ease permitting for industrial facilities.

**4 - Perry: State Oversight Not To Blame For West Blast, Houston Chron, 4/22/13**

<http://houston.cbslocal.com/2013/04/22/perry-state-oversight-not-to-blame-for-west-blast/>

**Summary:** Gov. Rick Perry said Monday that spending more state money on inspections would not have prevented the deadly explosion at the West Fertilizer Co. plant that was last investigated by Texas environmental regulators in 2006.

**5 - Moapa Paiute 'Coal to Clean Energy' March Calls for Expansion of Renewable Energy and Energy Efficiency, Mesquite Local news, 4/22/13**

<http://mesquitelocalnews.com/sections/news/clark-county/moapa-paiute-%E2%80%99coal-clean-energy%E2%80%99-march-calls-expansion-renewable-energy>

**Summary:** On the heels of NV Energy announcing plans to retire its coal plants and stop drawing power from Arizona's Navajo Generating Station, tribal leaders, health advocates, faith leaders, and clean energy supporters from across the Southwest joined the Moapa Band of Paiutes in a 16-mile walk on Saturday.

**6 - Arkansas spill renews fears of ruptures on proposed South Dakota pipeline, RapidCityJournal, 4/23/13**

[http://rapidcityjournal.com/news/arkansas-spill-renews-fears-of-ruptures-on-proposed-south-dakota/article\\_c5628138-8ae7-571f-9afa-a49dc8371604.html?print=true&cid=print](http://rapidcityjournal.com/news/arkansas-spill-renews-fears-of-ruptures-on-proposed-south-dakota/article_c5628138-8ae7-571f-9afa-a49dc8371604.html?print=true&cid=print)

**Summary:** Before the 911 calls started, it could have been any other Friday afternoon in Mayflower, Ark. The first report of trouble came in at 2:44 p.m on March 29. A resident reported that a black substance was oozing throughout the town of 2,200 people.

**7 - Texas Explosion Bolsters Push For Plant Safety But May Limit Bid For IST, Inside EPA, 4/22/13**

<http://insideepa.com/201304222431787/EPA-Daily-News/Daily-News/texas-explosion-bolsters-push-for-plant-safety-but-may-limit-bid-for-ist/menu-id-95.html>

**Summary:** The fatal explosion of a Texas fertilizer plant is unlikely to boost environmentalists' calls for EPA to require safer chemicals at industrial plants because there are few alternatives to the substances involved in the

explosion, although advocates say the incident highlights a need for additional safety practices, including enhanced reporting of, and limits on, chemicals stored on site, and buffer zones between facilities and residential areas.

**8 - EPA pokes holes in State's assessment of pipeline, EENews, 4/23/13**

**<http://www.eenews.net/energywire/2013/04/23/3>**

**Summary: U.S. EPA yesterday delivered a stinging critique of the State Department's environmental impact assessment of TransCanada's proposed Keystone XL pipeline project, concluding that the study contained insufficient data.**

## **Rail car suggested as cause of blast**

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By Peggy FikacAustin Bureau

Updated 11:39 pm, Monday, April 22, 2013

AUSTIN — The chairman of the Texas Commission on Environmental Quality raised the idea Monday that the explosion at a fertilizer plant that devastated the tiny town of West might have started with a rail car loaded with ammonium nitrate.

“I would submit to you that the (anhydrous) ammonia tank that's been a lot of people's focus was likely not what we saw exploding there,” TCEQ Chairman Bryan Shaw said at a forum sponsored by the Texas Tribune.

“It's more likely — as I've done some analysis of that — that it's likely possibly a rail car with ammonium nitrate in it,” Shaw said. “That's early, early — just looking at some of the visual studies.”

Shaw said identifying what caused the explosion will let officials know how to take action to prevent a similar tragedy from happening again. Fifteen people, including an elderly man being evacuated from a nursing home, died after the fire and explosion at the West Fertilizer Co. plant Wednesday night.

Responding to reports about environmental regulation of the plant, Shaw said his agency doesn't have responsibility for safety. That belongs to the Office of the Texas State Chemist and the federal Pipeline and Hazardous Materials Safety Administration. He said he understood that the Office of the Texas State Chemist had visited the plant 12 times last year.

According to various reports, 270 tons of ammonium nitrate, which can explode when detonated, was stored at the plant along with anhydrous ammonia, which does not have as high a risk.

The Homeland Security Department, the federal agency charged with regulating highly explosive substances, wasn't aware that such a large load of ammonium nitrate was at the plant. But the company did report it to another government agency — the Department of State Health Services.

The search for a cause of the explosion has underlined the patchwork of local, state and national laws regulating fertilizer facilities.

Shaw said that looking at aerial photos of where the blast originated, “that seems to be over in the area of where there could potentially have been a railroad car and/or in the bulk material storage area.”

Shaw said he isn't aware of any instances of an ammonium nitrate explosion when the material is "bulk-stored, where it's not contained. ... You don't just throw a match on it and it blows up. You need to have containment. ... Just a pile of ammonium nitrate if you light it, it's going to burn and cause issues, but it's not going to explode. And so there's something unusual here, and that's why I don't want to speculate and say yes, it's a rail car. But I want to say it appears that (there's) something else going."

He emphasized that he is not an expert on the chemical and that his comments were based largely on his own observation of before-and-after aerial photographs of the plant and a video of the explosion.

"It appears it was not the anhydrous ammonia tanks, and it appears to be in an area where they might be unloading those materials, and those materials have been known to be explosive," Shaw said.

He said he believes there was nothing his agency could have done to prevent the tragedy. He also said he has not heard anything to suggest it was intentionally caused and that it seems highly unlikely that it was "anything other than a tragic accident."

At the forum, Jim Marston of the Environmental Defense Fund was blunt in his assessment. "I believe because of failure of state government, people are dead now," he said.

On Monday, Gov. Rick Perry defended the state's inspection process regarding the plant, saying he was comfortable with the level of state oversight.

# West firefighters knew of ammonium nitrate; how it affected response unclear

By MATTHEW WATKINS, REESE DUNKLIN and BRANDON FORMBY

Published: 22 April 2013 11:40 PM

WEST — Many people in this Central Texas farming community, including volunteer firefighters, knew the fertilizer plant on the northern edge of town stored a chemical sometimes used in explosives.

But whether that knowledge factored into the attempts to put out the fatal blaze near the plant remained unclear Monday.

The town's volunteer firefighters and the Texas fire marshal's office declined to provide details on how the fire was fought, whether the volunteer department had a plan to handle a fire at the site or what industry standards are for such a situation. City officials gave no specific reasons for their refusal; a state fire marshal said information on tactics is online.

Assistant State Fire Marshal Kelly Kistner said there is no timeline on when the investigation into the explosion will be complete. Monday was the second day that officials examined the cratered epicenter of the blast. How firefighters battled the blaze will be a key focus.

"We're working at the right pace to make sure we get this just right," Kistner said.

The fire marshal's office is leading the multi-agency investigation into the cause of the fire that triggered the devastating explosion that killed 14 people, including 10 volunteer firefighters and two people who were helping them battle the flames. Two others who died are believed to be people who lived nearby.

McLennan County Justice of the Peace David Pareya had yet to release the names of any of those killed by late Monday, five days after the blast happened.

White House officials announced Monday that President Barack Obama will attend a memorial service for the victims at 2 p.m. Thursday at the Ferrell Center at Baylor University in Waco.

## 37 blocks of damage

The explosion caused varying degrees of damage in a 37-block area, including 350 homes, and crippled parts of the city's water infrastructure.

State health records show that West Fertilizer Co. and Adair Grain stored at least 270 tons of potentially dangerous ammonium nitrate as recently as last year. The chemical is a fertilizer but is also a main ingredient in explosives for mining, road-building and other commercial uses.

Steve Vanek, the city's mayor pro tem and a volunteer firefighter, headed to the fire Wednesday but was a half-mile away when the explosion occurred.

Asked Monday whether the department or the city knew about the ammonium nitrate, he said he "didn't want to get into all that." When pressed, he said he did.

"Yes, I've lived here my whole life," he said.

Vanek has declined repeatedly to answer questions about the fire department or any established plans for fighting a fire at the plant.

Fire Chief George Nors said he had no comment on the matter Monday.

## **Bryan blaze**

In 2009, a massive fertilizer blaze destroyed a storage facility outside Bryan. According to *The Eagle* in Bryan-College Station, the facility housed 557 tons of ammonium nitrate.

Volunteer firefighters from Brazos County responded first but backed out as the fire spread. The Bryan Fire Department took over within 15 minutes. After speaking with the volunteers, Bryan officials decided not to fight the blaze.

"All ... [the volunteers] said was that it was ammonium nitrate and it was on fire," said Randy McGregor, who was assistant fire chief at the time. "That was enough. There was no way we were going to put this out."

McGregor, now chief of the Bryan department, said that the incident was the only ammonium nitrate fire his department had handled but that guidebooks say they take massive amounts of water to extinguish. Firefighters didn't have access to that, so they had no choice but to let the fire burn, he said.

Firefighters first set up a perimeter of at least 1.5 miles around the facility. That eventually spread out so that 80,000 people were ordered to evacuate, including the entire city of Bryan.

McGregor said authorities focused on evacuation because of the risk of explosion. But the blast never came, and the fire burned itself out after about two days, McGregor said.

## Records requested

After the explosion in West, *The Dallas Morning News* asked for records from the state that might reveal how well the state supervised the plant. *The News* and several other news organizations sought information from the office of the Texas state chemist.

Among the records sought were state inspection reports from the West facility and any fines or regulatory violations.

*The News* also asked for a list of businesses in Texas that sell or store ammonium nitrate, the material believed to have exploded in West, in hopes of letting people know if other such stockpiles are near schools, apartment buildings and nursing homes.

On Monday, the Texas A&M University System, which houses the state chemist's office, appealed the release of those records. The Texas attorney general now has 45 business days to decide whether the records should be released.

Gov. Rick Perry said Monday that spending more state money on inspections would not have prevented the deadly explosion. He said that he remains comfortable with the state's level of oversight and suggested that most Texas residents agree with him.

People "through their elected officials clearly send the message of their comfort with the amount of oversight," he said.

Late Monday, Kistner, the assistant state fire marshal, and a spokeswoman for Union Pacific squelched speculation across the state that the West explosion originated in a train car on the railroad adjacent to the plant.

That notion appeared to originate from public comments that Texas Commission on Environmental Quality chairman Bryan Shaw made at an unrelated forum Monday.

He later told the *Houston Chronicle* that he was not an expert and that he based his observation solely on pictures of the blast site.

*Staff writers Matt Jacob and Brooks Egerton and The Associated Press contributed to this report.*

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## **Environmentalists seek to draw on West explosion in legislative matters**

American-Statesman Staff

In the wake of an environmental disaster in West, environmental groups promised to redouble their efforts to defeat legislative proposals that would ease permitting for industrial facilities.

“I believe because of the failure of state government, people are dead now,” Jim Marston, director of the Texas office of Environmental Defense Fund, said at an Earth Day forum at the Austin Club hosted by Texas Tribune on Monday.

Marston said his group will try to defeat the “many bills intent on making it easier to slide through permits without proper oversight.”

Chief among those are two measures, by the chairmen of the House and Senate Natural Resources Committees, state Sen. Troy Fraser, R-Horseshoe Bay, and state Rep. Allan Ritter, R-Nederland, that would likely make it harder for Texans to contest permits for industrial facilities, such as the one at West.

Among other things, the measures, as introduced, would direct that appeals in contested cases would bypass Travis County district courts, which have been known to be sympathetic to environmental concerns, and be heard by the Third Court of Appeals. The appeals court is based in Austin but its judges are elected from a broader swath of Central Texas.

Lawmakers who authored the proposals have said they are important to keep Texas attractive to business.

“Creating a more efficient environmental permitting process will help Texas attract and retain more business so that we can continue to grow our economy,” Fraser when he filed the bill in February. The Fraser measure was voted out of committee by a 6 to 3 vote Monday; the Ritter version has not had a committee hearing yet, suggesting its chances of passage are dim.

Environmental activists, who oppose the legislation, are seeking to put those proposals in a new light.

“We’ll be drawing a connection (to the West explosion),” Luke Metzger, the head of Environment Texas, said in an interview.

Still, West Fertilizer Co. would have gotten its permits regardless of the contested case rules.

The Texas Commission on Environmental Quality granted the facility a new air permit for its two 12,000-gallon anhydrous ammonia storage tanks in 2006. A second permit, for the loading and storage of fertilizer materials, was issued in 2007.



Both permits were granted after an agency technical review and a public comment period. In neither case, however, did the public comment, let alone press for a contested case hearing.

“Tightening the timeline of the current process, as I am attempting to do under (the legislative proposal), would not have prevented this tragedy from occurring in West,” Fraser said Monday.

Over the past 10 years, West Fertilizer Co., whose operations are regulated by a large handful of government agencies, has been fined or disciplined by at least three different state and federal agencies for safety or licensing violations, a record officials called “average.”

The largest fine, for \$10,000, was levied last year by the U.S. Pipeline and Hazardous Materials Safety Administration, when West Fertilizer failed to write a security plan to transport anhydrous ammonia, a chemical fertilizer stored under pressure. The company said it couldn’t afford to pay that amount, and the penalty was halved after West Fertilizer agreed to correct the oversight, agency documents show.

In 2006, the U.S. Environmental Protection Agency also fined West \$2,300 after discovering the company had failed to update its risk management plan, which includes an analysis of the potential consequences of a worst-case accident, as well as its emergency planning information.

TCEQ officials said the site had not been inspected since at least 2007 because sites as small as the fertilizer facility are inspected only after complaints.

In TCEQ parlance, the facility is considered a “minor source” since it is authorized to emit only 0.11 tons of soot and 0.92 tons of anhydrous ammonia each year. Major source facilities, by contrast, emit at least 100 tons per year of certain contaminants. TCEQ conducts regularly scheduled investigations at major source facilities.

The Office of the State Chemist also has oversight of the West facility, testing its products, conducting inspections and, since 2007, overseeing sales of ammonium nitrate, which can be made into explosives.

Gov. Rick Perry told The Associated Press on Monday that he remains comfortable with the level of state oversight in the wake of the blast.

But with investigators sorting through the history of how a small industrial facility operated so near a school and houses, and looking for the cause of the explosion that killed 14 people injured 200 others, the disaster provides rare leverage for environmental groups in a business-friendly Legislature.

At the forum Monday, TCEQ chairman Bryan Shaw downplayed the possibility of a regulatory breakdown.

He had concerns, he said, with suggestions immediately after the disaster that “it’s a failure of environmental regulations with bodies not yet discovered.”

“We’re at the beginning stage of discovering what happened,” he cautioned.

“We want solutions that solve the problem,” he said later, “not ones that give a false sense of security.”

“There are hundreds of these facilities, and fortunately they don’t explode very often,” said Shaw.

**AUSTIN, Texas (AP)** — Gov. Rick Perry said Monday that spending more state money on inspections would not have prevented the deadly explosion at the West Fertilizer Co. plant that was last investigated by Texas environmental regulators in 2006. Perry told The Associated Press that he remains comfortable with the state's level of oversight following last week's massive blast in the rural farming town of West that killed 14 people and injured 200. Federal and state investigators say they have yet to identify the cause of the explosion.

Perry suggested that the majority of Texas residents agree with him.

“(People) through their elected officials clearly send the message of their comfort with the amount of oversight,” Perry said Monday.

Perry was in Illinois on Monday on a trip intended to lure companies to relocate to Texas. Among his selling points: Texas' low regulatory climate that Perry says unburdens businesses and allows companies to create more jobs and wealth. Bryan Shaw, chairman of the Texas Commission on Environmental Quality, said Monday he did not believe that more environmental regulations would have prevented the blast.

Shaw told AP that he believes the final investigation will show that anhydrous ammonia, which his agency regulates and the plant stored, was not responsible for the explosion. Shaw's agency last inspected the fertilizer plant in 2006 after receiving a complaint about odor. Agency leaders have said investigators have not returned because they have not received any other complaints.

Yet over the years, the fertilizer company was fined and cited for violations by federal and state agencies. Last summer, the U.S. Pipeline and Hazardous Materials Safety Administration assessed a \$10,000 fine against West Fertilizer for improperly labeling storage tanks and preparing to transfer chemicals without a security plan. The company paid \$5,250 after reporting it had corrected the problems. The U.S. Environmental Protection Agency also cited the plant for not having an up-to-date risk management plan. That problem was also resolved, and the company submitted a new plan in 2011.

Perry said Monday that “we follow regulations of the EPA.”

Environmental groups are targeting several bills in the Republican-controlled Legislature that they say would further relax state oversight. Those proposals include one that would restrict the public's ability to research a company's environmental compliance history.

Another would significantly undermine the ability of groups to contest permits issued by state environmental regulators. A Senate committee cleared the proposal for a full chamber vote last week, but the results of the vote were posted Monday.

“If there are questions that we are still trying to answer now about what happened in West, it would seem like this would be the wrong time to be weakening environmental regulations and the ability of cities and communities to take part in the process,” said David Weinberg, executive director for the Texas League of Conservation Voters.

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## Moapa Paiute 'Coal to Clean Energy' March Calls for Expansion of Renewable Energy and Energy Efficiency

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<http://mesquitelocalnews.com/sections/news/clark-county/moapa-paiute-'coal-clean-energy'-march-calls-expansion-renewable-energy>

April 23, 2013

### Special to the MLN

*Tribal Leaders, Clean Energy Supporters, and Faith Leaders from Across Southwest Join Moapa Band of Paiutes to Mark Earth Day Weekend*

**MOAPA** – On the heels of NV Energy announcing plans to retire its coal plants and stop drawing power from Arizona's Navajo Generating Station, tribal leaders, health advocates, faith leaders, and clean energy supporters from across the Southwest joined the Moapa Band of Paiutes in a 16-mile walk on Saturday. A year ago, Moapa Paiutes walked 50 miles over three days from their reservation to Las Vegas to protest the Reid Gardner coal plant's pollution and bring attention to the tribe's efforts to develop solar energy. This year's 'Coal to Clean Energy' walk was set to culminate at the site of the 250-megawatt solar project on the Moapa Paiute Reservation that will sell power to Los Angeles.

"For far too long, the Reid Gardner coal plant has been poisoning our air, water, and the health of our families," said Moapa Band of Paiutes Chairman William Anderson. "NV Energy moving to close the coal plant is the result of countless families coming together to demand change. We want to make sure that the coal plant does indeed close and stays closed. We don't want the coal plant to be replaced by another polluting power plant – like a gas plant. We want a switch to truly clean sustainable energy sources like the solar project that will be built in our Reservation."

Senator Harry Reid expressed his support for the Moapa Paiute 'Coal to Clean Energy' march. "The Moapa Band of Paiutes is an important voice for Nevada's transition towards a cleaner, more sustainable energy future," said Reid. "The day is soon coming when the Paiutes will be able to breathe freely and the Reid-Gardner coal plant will be shuttered and they will break ground on the nation's first commercial solar energy project on tribal lands that will not emit any hazardous emissions, wastes, or carbon pollution."

For decades, Moapa Paiute families have experienced high levels of asthma attacks, lung disease, heart disease and cancer they believe is related to the coal pollution coming from the Reid Gardner power plant. The plant is located immediately adjacent to their community on the Moapa River Reservation.

“The Paiutes are leading the way with the Moapa Solar project that will soon break ground and create good jobs for the families that live right here in the Reservation” said Allison Chin, national President of the Sierra Club, who participated in the walk on Saturday. “Today’s march from the Reid Gardner coal plant to the future of site of the Moapa Solar Project represents for all of us a new coal to clean energy path for not only Nevada, but for the entire West to follow.”

NV Energy’s recently announced statewide plan to transition away from coal takes place in the midst of a trend to end the use of coal in the West. Washington State enacted a law that will close its last coal plant by 2025, and Oregon will be coal-free by 2020. Los Angeles just announced that it is ending its use of coal energy from Arizona’s Navajo Generating Station and Utah’s Intermountain Power Plant. Southern California Edison is in the process of finalizing its exit from the Four Corners Generating Station. The Department of Water Resources will exit the Reid Gardner plant this summer, and several smaller publicly owned California utilities are also finalizing an exit from New Mexico’s San Juan Generating Station.

Additional photos from today's event can be found [here](#).



Rapid City  
**Journal**

## Arkansas spill renews fears of ruptures on proposed South Dakota pipeline



2 HOURS AGO • [DANIEL SIMMONS-RITCHIE JOURNAL STAFF](#)

Before the 911 calls started, it could have been any other Friday afternoon in Mayflower, Ark.

The first report of trouble came in at 2:44 p.m on March 29. A resident reported that a black substance was oozing throughout the town of 2,200 people.

By 2:59 p.m., more than 200,000 gallons of that substance — oil from Canadian tar sands — would bubble over lawns and roads. Storm drains became clogged and homes were evacuated. The substance seeped into the town's lake.

The source? A rupture in an underground oil pipeline, 20 inches in diameter and 59 years old.

Nearly a month later, as the clean-up continues in Mayflower, that spill is fanning criticism over a different pipeline, 1.5 times wider in diameter and proposed to run across South Dakota and three other states.

The Keystone XL pipeline, proposed by Canadian company TransCanada, is no stranger to controversy. Approval of the project has been delayed repeatedly over the past five years due to strong opposition. Some landowners believe TransCanada has used bullying tactics to acquire land access. Environmental group fear that the pipeline will contribute to greenhouse gas emissions.

And now, ever since the Arkansas spill, fears over pipeline ruptures have gained renewed focus by both local and national opponents of Keystone XL.

### **Could it happen here?**

Paul Seamans, chairman of Dakota Rural Action, a group that opposes the pipeline, said the specter of the Mayflower incident was raised repeatedly at a public hearing in Nebraska last week.

"That spill was brought up quite a bit and the one in Kalamazoo, Mich.," he said.

In 2010, a rupture on a pipeline in Michigan dumped 800,000 gallons of Canadian tar sands oil into the Kalamazoo River. Enbridge, the pipeline owner, has spent more than \$800 million cleaning it up.

TransCanada officials said in a statement this week that Keystone XL would be the safest pipeline in America.

"TransCanada plans on building the most advanced, state-of-the-art pipeline that has been built to date using the latest technology, highest strength steel and most modern welding techniques," said Shawn Howard, a company spokesman.

But Seamans takes little comfort in that. He's particularly concerned that South Dakota lawmakers not only approved the project, but balked at making the company pay a bond to clean up potential spills.

At present, if a major spill happens, the Environmental Protection Agency can compel TransCanada to clean up a spill. If a spill contaminates South Dakota ground water or waterways, the state Department of Environment and Natural Resources can also compel TransCanada to clean it up. If a spill happens on private land and it isn't the landowner's fault, the company is liable for clean up.

But Seamans believes that still doesn't provide adequate protection to landowners affected by a spill. While TransCanada would have to clean up a spill, it couldn't be compelled to pay for economic damages, such as those suffered by a ranch owner who can no longer use his property for years due to groundwater contamination.

Seamans said a landowner could sue but would face a difficult fight given the legal resources of TransCanada. "It would probably cost you more than you would ever get out of them," he said.

### **Seeking protections**

For that reason, Dakota Rural Action pushed a bill in the South Dakota Legislature that would have required the company to pay a bond of \$30 million. If a landowner faced



economic damages, the state could compensate the owner from that fund. TransCanada would get the remaining funds when the pipeline was retired.

Groups in different states along the Keystone XL route have proposed similar bills, but none have passed. Dakota Rural Action pushed its version for four years. In 2011, it came close to passing in the state senate, but fell one vote short of the two-thirds majority it needed.

Ryan Maher, a Republican senator from Isabel, who sponsored the bill in 2010, still thinks the bill would have been beneficial.

"It's not a matter of if, it's a matter of when there's going to be an oil spill," he said.

Maher doesn't oppose the pipeline itself. He sees benefits to South Dakota from tax revenue and construction jobs, but he said it was important that landowners get as much protection as possible against spills and economic hardship.

At the time, opponents argued that the bond was a duplication of protections already in place.

John Smith, counsel for the Public Utilities Commission, said he generally agrees enough protections exist.

Smith said that if TransCanada did not properly clean up a body of water, the state had the power to seize the pipeline from the company.

"We have the ability to place a lien," he said. "And that pipeline is worth an awful, awful lot of money."

Smith also said some of the fears over the contamination of the Ogallala Aquifer were overblown. The aquifer is America's largest, covering eight states, and provides drinking water to more than 2.3 million people.

Smith said while spills are dangerous over waterways – like the Kalamazoo River in Michigan – they are less dangerous on land. Oil coagulates and would move very slowly from the source of a leak.

"In terms of catastrophic risk, I don't see it," he said.

### **Worries persist**

Jane Kleeb, director of Bold Nebraska, an umbrella organization that represents 20 groups that oppose the pipeline, said any spill could have serious consequences.

She said the pipeline travels 11 to 20 miles directly over the aquifer and that studies on oil movement are based on crude oil, not the tar sands in Keystone XL. She added that toxic chemicals, like benzene, are also present in those pipelines.

She also added that while protections are in place for clean-up, those still don't include economic damages to landowners.

Ultimately, she said, while a bond may help protect the public from those risks, the biggest protection would be to not build the pipeline at all.

"There's no amount of reward in this pipeline that is worth the risk that we are having to assume," she said.



Daily News

## Texas Explosion Bolsters Push For Plant Safety But May Limit Bid For IST

Posted: April 22, 2013

The fatal explosion of a Texas fertilizer plant is unlikely to boost environmentalists' calls for EPA to require safer chemicals at industrial plants because there are few alternatives to the substances involved in the explosion, although advocates say the incident highlights a need for additional safety practices, including enhanced reporting of, and limits on, chemicals stored on site, and buffer zones between facilities and residential areas.

[An April 17 fire](#) at the West Fertilizer Co. plant, located within several thousand feet of a middle school and a nursing home in West, TX, caused ammonium nitrate to explode, killing more than a dozen people, including many first responders, and wounding an estimated 200. The incident has prompted an ongoing investigation by the U.S. Chemical Safety Board and calls for EPA and other regulators to strengthen their oversight of plants that use and store large volumes of hazardous substances on site.

"We have a duty to learn from this disaster, not only for the town of West, but for the millions of Americans across the country who live near similar facilities," U.S. Public Interest Research Groups said in a statement, noting that almost 500 chemical facilities each put 100,000 people at risk of death or illness due to chemical exposure.

For example, a source with Public Employees for Environmental Responsibility (PEER) says video of the fire that a nearby resident filmed just before the ammonium nitrate tanks exploded shows that neighboring communities must be better informed of risks, and that EPA should strengthen its risk management plan (RMP) requirements, which requires reporting of chemicals and emergency response plans, so that first responders and residents are more aware of the risks at industrial facilities.

When the fertilizer plant in West, TX, caught fire, nearby residents should have been fleeing, not filming, the source says. "If you have that kind of time bomb in your community, you should know if something goes wrong, get the hell out."

While the West Fertilizer Co. plant had reported to EPA on its store of anhydrous ammonia, the plant did not report that highly explosive ammonium nitrate was also on site because such reporting is not required by the agency's RMP rules.

But one environmentalist says EPA has the authority to add the substance to the list of chemicals that require RMP reporting.

The call for tougher safety measures at industrial plants echoes a January report from Greenpeace and dozens of environmental groups that reiterated the groups' 2012 petition to EPA to use its existing authority under the general duty clause of the Clean Air Act (CAA) to mandate inherently safer technologies (IST), a range of measures that includes switching to alternate chemicals where feasible as well as changes to how chemicals are handled and stored at plants across the country.

### Safer Technology

The January Greenpeace report relied on data from the Congressional Research Service (CRS) to show that an accident or terrorist attack at an industrial plant could kill or injure thousands of workers and nearby residents unless a facility uses IST -- which in many cases would mean switching to chemicals that would pose less of a risk in the event of their release following an attack, though it could also mean other process changes.

There are 12,440 facilities nationwide that use large quantities of chemicals and put people at risk, Greenpeace said citing a CRS report. In case of an attack or accident, 89 of those facilities could affect 1 million people, while 384 facilities would put more than 100,000 people at risk and more than 2,000 facilities would put more than 10,000 people at risk.

Environmentalists, in their push for EPA to mandate IST, have repeatedly cited the proximity of many industrial facilities to residential neighborhoods as cause for concern, and Greenpeace raised the need for buffer zones in a blog posted two days after the explosion. "This incident also highlights the importance of stronger oversight to protect communities, workers, and first responders from the catastrophic risks of these dangerous facilities," John Deans, of Greenpeace, wrote April 19. "These threats could be reduced by requiring facilities to use safer technologies whenever feasible."

But a source with the coalition of environmentalists that petitioned EPA to require IST says alternative chemicals are only one of a variety of steps that could reduce the consequences of an accidental release or terrorist attack.

"When safer [chemical] alternatives are available they should use them," the source says. "And if there isn't then there should be a buffer zone, and here it is clearly not enough."

In cases where EPA can not mandate use of safer technologies, advocates say the agency should still strengthen its rules. The PEER source, for example, says, "Facilities that are inherently hazardous like this that have extremely high risks should not be near homes," although the source notes that few communities are considering moving industrial plants away from residential neighborhoods even though that measure could save lives.

The source also says EPA should take a tougher look at the emergency response plans required in RMP reporting for facilities that have been cited for violations in the past. The West Fertilizer Co. was built in 1962 before state and federal air permitting requirements and did not have to obtain authorization for air emissions until 2004, according to an April 18 Texas Commission on Environmental Quality (TCEQ) statement. Texas regulators investigated the plant in 2006 and issued a notice of violation, TCEQ says. But another state investigation later that year found no concerns.

The American Chemistry Council has said many chemical plants already consider product or process changes where feasible and that government mandated IST is unnecessary. Although the fertilizer plant is not an ACC member, the group said in a statement to *Inside EPA* that EPA considered mandating IST in 1996 and found the potential benefits lacking, in part because companies generally consider process alternatives to avoid more costly management controls that dangerous products and practices require.

### Legislative Push

Meanwhile, Sen. Frank Lautenberg (D-NJ), while expressing his condolences for the families of those killed or injured by the explosion, said April 18 that the incident illustrates the need to pass his legislation "to ensure that chemical plants use the safest chemicals and processes available."

The senator added, "Communities located near chemical facilities deserve to know that all reasonable steps are being taken to reduce the risk of a chemical explosion. We need to pass my legislation to require facilities to thoroughly review risk and help us move toward more secure plants and safer communities."

Lautenberg earlier this year reintroduced his legislation aimed at securing chemical facilities as well as wastewater and drinking water plants by requiring IST and assessing vulnerability to potential attack, although observers say they doubt the bills, S. 67 and S. 68, will get very far as they lack companion legislation in the House and failed to make it out of committee in 2010 and 2011.

While environmentalists are pushing for increased use of federal authority to require safety measures, industry and some legislators are countering the push for IST. Rep. Mike Pompeo (R-KS) Feb. 28 reintroduced his bill, H.R. 888, which largely mirrors his unsuccessful legislation from the 112th Congress aiming to block EPA regulation of chemical plants' security. But the new bill includes some additions, including the prohibition on IST mandates - such as manufacturing changes to reduce risk - at any facilities subject to the general duty risk planning provisions of section 112(r) of the air law.

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## THE POLITICS AND BUSINESS OF UNCONVENTIONAL ENERGY

### 3. KEYSTONE XL:

#### EPA pokes holes in State's assessment of pipeline

Margaret Kriz Hobson, E&E reporter

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U.S. EPA yesterday delivered a stinging critique of the State Department's environmental impact assessment of TransCanada's proposed Keystone XL pipeline project, concluding that the study contained insufficient data.

The agency's point-by-point **criticism** of the State Department report is certain to complicate the Obama administration's efforts to decide whether to allow TransCanada to build the \$7 billion project, which would carry Alberta's oil sands crude 1,200 miles to refineries along the Texas Gulf Coast.

The EPA comments to State were distributed to the news media by a coalition of environmental groups campaigning to block construction of the controversial pipeline (***E&ENews PM***, April 22).

In a six-page letter to State officials, EPA called for more rigorous analysis of the pipeline's greenhouse gas impacts and more details on alternative routes for the pipeline. The agency also recommended that TransCanada be required to meet additional groundwater protection mandates.

EPA disparaged State's conclusion that the pipeline wouldn't increase greenhouse gas emissions because the oil sands producers would eventually find another way to ship the crude to market if the pipeline were not built.

According to the agency, the draft environmental impact assessment failed to consider that alternative transportation methods are far more costly. "[W]e recommend that the final EIS provide a more careful review of the market analysis and rail transport options," the comments said.

"This analysis should consider how the level and pace of oil sands crude production might be affected by higher transportation costs and the potential for congestion impacts to slow rail transport of crude."

EPA also called on State to require TransCanada to build a network of monitoring wells along the length of the pipeline to watch for leaks.

The agency recommended that the wells be mandated "especially in sensitive or ecologically important areas, as well as where water supply wells are located and at stream crossings to provide a practical means for early detection of leaks."

In addition, EPA said TransCanada should be required to develop a more rigorous emergency response plan and to pre-position response equipment along the pipeline route.

Environmentalists immediately jumped on EPA's criticism as evidence that President Obama should block the pipeline project.

The National Wildlife Federation's senior counsel Jim Murphy said EPA's letter "shows that despite multiple tries, the State Department is incapable of doing a proper analysis of the climate, wildlife, clean water, safety and other impacts of this disastrous and unneeded project."

A State official said the department will post online all public comments on the draft supplemental environmental impact statement, although "the mechanics and exact timing are being worked out."

As of last week, the agency had received 800,000 comments. Environmentalists are predicting that the final count will rise above 1 million.

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